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July 29, 2021

VIA ECF

The Honorable Jesse M. Furman
United States District Court, Southern District of New York
40 Foley Square, Courtroom 1105
New York, NY 10007

Re: Joint Status Letter Pursuant to Civil Case Management Plan and Scheduling Order, ECF 51
Jennifer S. Fischman v. Mitsubishi Chemical Holdings America, Inc., et al.
Case No. 18-cv-08188 (JMF)

Your Honor:

This firm represents defendants Mitsubishi Chemical Holdings America, Inc., Nicholas Oliva, and Donna Costa (collectively, "MCHA") in the above-referenced matter. We submit this letter on behalf of all parties pursuant to Your Honor's July 26, 2021 Order [ECF 111] and Your Honor's Civil Case Management Plan and Scheduling Order, dated October 24, 2019 [ECF 51] in advance of the parties' August 5, 2021 pretrial conference.

The parties respond to the items included in Your Honor's Case Management Plan and Scheduling Order as follows:

- **A statement of all existing deadlines, due dates, and/or cutoff dates:** The current deadlines include: (1) the completion of discovery to occur by July 30, 2021; (2) the deadline for Defendants' motion for summary judgment due on August 30, 2021, Plaintiff's opposition due September 13 and Defendants' reply due September 20.
- **A brief description of any outstanding motions:** There are no outstanding motions at this time.
- **A brief description of the status of discovery and of any additional discovery that needs to be completed:** The remaining items of discovery include: (1) completion of the report of findings to be prepared by Defendants' forensic ink inspector on August 2, 2021; (2) by agreement of the parties, should Defendants choose to select the inspector as an expert in this matter, Plaintiff will have an opportunity to depose the expert and/or retain a rebuttal expert; (3) Plaintiff's completion of her inspection of notebooks/legal pads Defendants provided Plaintiff access to on July 26, 2021 and August 4, 2021; (4) Plaintiff may seek relief from the Court, including a limited reopening of certain depositions, depending upon the results of Plaintiff's inspection of the documents; (5) Plaintiff wishes

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to reserve the right to seek depositions of witnesses in Japan in the event that the present restrictions on taking such depositions, which have been present throughout the COVID era, are lifted; (6) Defendants' employability expert, Rona Wexler, noticed by Plaintiff and scheduled for August 6, 2021; and (7) the deposition of Patricia Saunders, noticed by Plaintiff, with a date to be selected as soon as practicable. The depositions of these two final witnesses were originally scheduled to be completed this week, but were adjourned due to witness scheduling issues and personal emergent circumstances.

- **A list of all prior settlement discussions, including the date, the parties involved, whether any third-party (e.g. Magistrate Judge, mediator, etc.) was involved, and the approximate duration of such discussions, if any:** MCHA and Plaintiff engaged in two failed mediations on November 27, 2017 and October 15, 2019, respectively. The November 27, 2017 mediation was held as part of the Equal Employment Opportunity Commission's conciliation program. The October 15, 2019 mediation was a private mediation with an agreed upon JAMS mediator. In early 2021, the parties exchanged a few emails concerning settlement as well.
- **A statement of whether or how the Court could facilitate settlement of the case (for example, through a(nother) settlement conference before the assigned Magistrate Judge or as part of the Court's Mediation Program):** Given that the parties have failed to negotiate a settlement during two mediations, it does not appear that a settlement can be facilitated by the Court at this juncture. However, Plaintiff is amenable to engaging in settlement negotiations and welcomes the Court's assistance should Defendants be so inclined.
- **A statement of the anticipated length of trial and whether the case is to be tried to a jury:** The parties anticipate that trial will last approximately four weeks. The matter is to be tried before a jury.
- **A statement of whether the parties anticipate filing motions for summary judgment:** Defendants intend on filing a motion for summary judgment.
- **Any other issue that the parties would like to address at the pretrial conference or any information that the parties believe may assist the Court in advancing the case to settlement or trial:** The parties are unaware of any outstanding issues that need to be addressed at this time.

The parties sincerely appreciate Your Honor's attention and time devoted to this matter, and look forward to meeting at the August 5, 2021 pretrial conference.

Respectfully submitted,

/s/ Mercedes Colwin
Mercedes Colwin
Brittany L. Primavera